

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ZACK K. DE PIERO,
Plaintiff,

v.

PENNSYLVANIA STATE UNIVERSITY,
MARGO DELLICARPINI, DAMIAN
FERNANDEZ, LILIANA NAYDAN,
CARME BORGES, ALINA WONG, LISA
MARRANZINI, FRIEDERIKE BAER
AND ANEESAH SMITH,
Defendants.

CIVIL ACTION

NO. 23-2281

O R D E R

AND NOW, this 10th day of January, 2024, upon consideration of Defendants' Motion to Dismiss the Amended Complaint (ECF No. 23), Plaintiff's Response in Opposition (ECF No. 24), and Defendants' Reply in support (ECF No. 28), Defendants' Motion to Dismiss is

GRANTED IN PART and DENIED IN PART. IT IS HEREBY ORDERED that:

1. Counts One, Two, and Five of Plaintiff Zack De Piero's Amended Complaint, alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 1981's guarantee of equal rights to "make and enforce contracts," and the Pennsylvania Human Rights Act, are **DISMISSED WITHOUT PREJUDICE** with respect to their allegations of disparate treatment. Defendants' Motion to Dismiss is **DENIED** with respect to De Piero's allegations of a hostile work environment in Counts One, Two, and Five.
2. To the extent that Count Two of the Amended Complaint alleges that Defendants violated 42 U.S.C. § 1981's "equal benefit clause", it is **DISMISSED WITH PREJUDICE**.
3. Counts Three of the Amended Complaint, alleging violations of Title VI of the Civil Rights Act of 1964, is **DISMISSED WITHOUT PREJUDICE**.

4. Count Four of the Amended Complaint, alleging violations of 42 U.S.C. § 1983, is **DISMISSED WITH PREJUDICE.**

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.